

ESTTA Tracking number: **ESTTA588125**

Filing date: **02/19/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Rubik's Brand Ltd.
Granted to Date of previous extension	02/19/2014
Address	7 Lambton Place London, W11 2SH UNITED KINGDOM
Correspondence information	Nicholas G. de la Torre Brinks Gilson & Lionne P.O. Box 10395 Chicago, IL 60610 UNITED STATES officeactions@brinksgilson.com Phone:312/321-4200

Applicant Information

Application No	85931591	Publication date	10/22/2013
Opposition Filing Date	02/19/2014	Opposition Period Ends	02/19/2014
Applicant	TAX DISCHARGE DETERMINATOR.COM, LLC 111 - 2ND AVENUE N.E., SUITE 900 ST. PETERSBURG, FL 33701 GERMANY		

Goods/Services Affected by Opposition


Class 042. First Use: 2013/05/14 First Use In Commerce: 2013/05/14
All goods and services in the class are opposed, namely: PROVIDING A WEBSITE FEATURING ON-LINE NON-DOWNLOADABLE SOFTWARE THAT ENABLES USERS TO DETERMINE TAX DISCHARGE DATES IN FEDERAL BANKRUPTCY LAW


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1265094	Application Date	04/05/1982
Registration Date	01/24/1984	Foreign Priority Date	NONE
Word Mark	NONE		

Design Mark	
Description of Mark	THE MARK CONSISTS OF A BLACK CUBE HAVING NINE COLOR PATCHES ON EACH OF ITS SIX FACES WITH THE COLOR PATCHES ON EACH FACE BEING THE SAME AND CONSISTS OF THE COLORS RED, WHITE, BLUE, GREEN, YELLOW AND ORANGE.
Goods/Services	Class 028. First use: First Use: 1980/01/01 First Use In Commerce: 1980/01/01 Three Dimensional Puzzles

U.S. Registration No.	2285794	Application Date	05/02/1996
Registration Date	10/12/1999	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	The mark consists of a black cube having nine color patches on each of its six faces with the color patches on each face being the same and consisting of the colors red, white, blue, green, yellow and orange.		
Goods/Services	Class 042. First use: First Use: 1998/11/00 First Use In Commerce: 1998/11/00 licensing of intellectual property		

Attachments	73358308#TMSN.gif(bytes) 75105330#TMSN.gif(bytes) 2.19.14 Notice of Opposition 85931591.pdf(243633 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Nicholas G. de la Torre/
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Name	Nicholas G. de la Torre
Date	02/19/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RUBIK’S BRAND LIMITED,)	
)	
)	Opposition No. _____
Opposer,)	
)	
v.)	Serial No. 85/931,591
)	
TAX DISCHARGE DETERMINATOR.COM, LLC)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Rubik’s Brand Limited, a corporation duly organized and existing under the laws of the United Kingdom, with its principal place of business in London, United Kingdom, believes it will be damaged by the registration of the Design mark, Serial No. 85/931,591 (the “Opposed Mark”), in the name of Tax Discharge Determinator.com, LLC (“Applicant”), 111 – 2nd Avenue N.E., Suite 900, St. Petersburg, Florida 33701, and hereby opposes said application pursuant to 15 U.S.C. § 1063.

In support of this Notice of Opposition, Rubik’s Brand Limited states as follows:



1. Since at least as early as 1980, Rubik’s Brand Limited has, itself and through its predecessors in interest (collectively “Rubik’s Brand”), used the famous RUBIK’S CUBE three dimensional Cube design trademark, service mark and trade dress (collectively, the “RUBIK’S CUBE Design Mark”) in connection with the sale and licensing of three dimensional puzzle cubes and various other goods and services, and has continuously used the RUBIK’S CUBE Design Mark in commerce since that date.

2. Rubik's Brand consistently and prominently displays and advertises the RUBIK'S CUBE Design Mark in connection with the promotion, offer and sale of its goods and services.

Rubik's Brand has spent considerable time and money extensively promoting and advertising the RUBIK'S CUBE Design Mark in connection with its products and services, resulting in significant sales of goods and services offered under the RUBIK'S CUBE Design Mark.

3. As a result of the extensive advertising, promotion, licensing and sale of its goods and services under the RUBIK'S CUBE Design Mark, and through favorable industry acceptance and recognition, the consuming public and the trade have come to recognize the RUBIK'S CUBE Design Mark as identifying a single source of high quality products and services.

4. Rubik's Brand owns the following United States trademark and service mark registrations for the RUBIK'S CUBE Design Mark:

Mark	Reg. No.	Reg. Date	Goods/Services	Status
	1,265,094	1/24/84	Three Dimensional Puzzles	Incontestable
	2,285,794	10/12/99	Licensing of Intellectual Property	Incontestable

5. Copies of the above-referenced federal registration certificates are attached as Exhibit 1. These federal registrations are valid, subsisting and in full force and effect. Rubik's Brand's federal registration certificates are prima facie evidence of the validity of these marks as well as Rubik's Brand's ownership and exclusive right to use these marks in connection with the identified goods and services. 15 U.S.C. § 1057(b). Rubik's Brand's right to use the above-referenced marks in commerce is incontestable pursuant to 15 U.S.C. § 1065.

6. As a result of Rubik's Brand's long-standing use of the RUBIK'S CUBE Design Mark in United States commerce in connection with the sale and licensing of three dimensional

puzzle cubes and various other goods and services, Rubik's Brand also owns common law rights in and to the RUBIK'S CUBE Design Mark.

7. The RUBIK'S CUBE Design Mark has become, through widespread and favorable public acceptance and recognition, famous and an asset of incalculable value as a symbol of Rubik's Brand, its quality products and services, and its goodwill. The RUBIK'S CUBE Design Mark became famous prior to the time Applicant filed the application for and used the Opposed Mark.

8. After Rubik's Brand's first use of the RUBIK'S CUBE Design Mark and after the PTO issued federal registrations for the RUBIK'S CUBE Design Mark, Applicant filed an application to register the Opposed Mark. The identification of services in the application reads "providing a website featuring on-line non-downloadable software that enables users to determine tax discharge dates in federal bankruptcy law" in Class 42.

9. At the time it filed its application to register the Opposed Mark, Applicant had at least constructive knowledge of Rubik's Brand's rights in the RUBIK'S CUBE Design Mark under 15 U.S.C. Section 1072.

10. Because of the similarity between the Opposed Mark and the RUBIK'S CUBE Design Mark, registration of the Opposed Mark in association with the identified services is likely to cause confusion as to the source or origin of Applicant's services, and is likely to mislead consumers, all to Rubik's Brand's damage.

11. The Opposed Mark, as used in connection with the identified services, is likely to cause confusion in the minds of the public, and is likely to deceive purchasers. The public, upon seeing the Opposed Mark in connection with Applicant's services, is likely to believe that such services originate with, are sponsored by, or have some connection or association with Rubik's

Brand. Accordingly, registration of the Opposed Mark would damage Rubik's Brand, and registration therefore should be refused pursuant to 15 U.S.C. §1052.

12. The Opposed Mark, as used with the identified service, is likely to cause dilution by blurring of the RUBIK'S CUBE Design Mark in violation of 15 U.S.C. § 1125(c). Due to the similarity between the RUBIK'S CUBE Design Mark and the Opposed Mark, consumers will likely associate Applicant and/or Applicant's services with Rubik's Brand or Rubik's Brand's goods and/or services, which will impair the distinctiveness of the famous RUBIK'S CUBE Design Mark.

WHEREFORE, Rubik's Brand believes that it will be damaged by registration of the Opposed Mark which is the subject of United States Trademark Application Serial No. 85/931,591, and therefore respectfully requests that such registration be refused on the grounds of likelihood of confusion and dilution.

Respectfully submitted,

RUBIK'S BRAND LIMITED

Dated: February 19, 2014

By: /Nicholas G. de la Torre/
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Attorneys for Opposer

Exhibit 1

Int. Cl.: 28

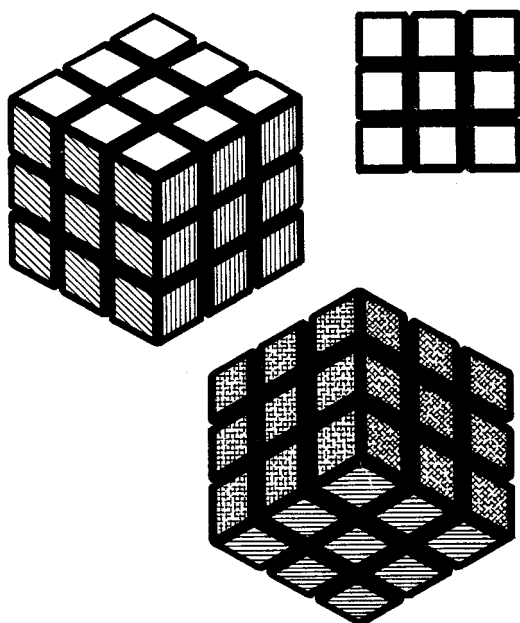
Prior U.S. Cl.: 22

United States Patent and Trademark Office

Reg. No. 1,265,094

Registered Jan. 24, 1984

TRADEMARK
Principal Register



CBS Inc. (New York corporation)
51 W. 52nd St.
New York, N.Y. 10019, assignee of
Ideal Toy Corporation (Delaware corporation)
Hollis, N.Y.

For: **THREE DIMENSIONAL PUZZLES**, in
CLASS 28 (U.S. Cl. 22).

First use Jan. 1, 1980; in commerce Jan. 1, 1980.

The drawing is lined for the colors red, green,

orange, blue and yellow.

The mark consists of a black cube having nine color patches on each of its six faces with the color patches on each face being the same and consisting of the colors red, white, blue, green, yellow and orange.

Sec. 2(f).

Ser. No. 358,308, filed Apr. 5, 1982.

W. A. CONN, Examining Attorney

Int. Cl.: 42

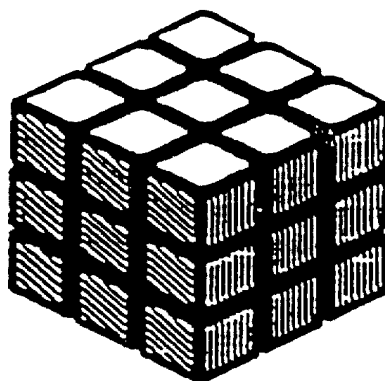
Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,285,794

Registered Oct. 12, 1999

**SERVICE MARK
PRINCIPAL REGISTER**



SEVEN TOWNS LIMITED (UNITED KINGDOM
CORPORATION)
7 LAMBTON PLACE
LONDON W11 2SH, ENGLAND

FOR: LICENSING OF INTELLECTUAL
PROPERTY, IN CLASS 42 (U.S. CLS. 100 AND
101).

FIRST USE 11-0-1998; IN COMMERCE
11-0-1998.

OWNER OF U.S. REG. NOS. 1,242,974 AND
1,265,094.

THE DRAWING IS LINED FOR THE
COLORS RED AND GREEN. THE REMAINING
COLORS -- WHITE, BLUE, YELLOW, AND

ORANGE -- DO NOT APPEAR IN THE DRAW-
ING, BUT ARE CLAIMED AS A FEATURE OF
THE MARK.

THE MARK CONSISTS OF A BLACK CUBE
HAVING NINE COLOR PATCHES ON EACH
OF ITS SIX FACES WITH THE COLOR PATCH-
ES ON EACH FACE BEING THE SAME AND
CONSISTING OF THE COLORS RED, WHITE,
BLUE, GREEN, YELLOW AND ORANGE.

SN 75-105,330, FILED 5-2-1996.

DORITT L. CARROLL, EXAMINING ATTOR-
NEY

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2014, I served a true and correct copy of the foregoing NOTICE OF OPPOSITION on Applicant's counsel by U.S. mail addressed as follows:

Nathan P. Suedmeyer
LARSON & LARSON, P.A.
11199 69th St.
Largo, Florida 33773-5504

/Nicholas G. de la Torre/
One of the Attorneys for Opposer
Rubik's Brand Limited